

# How will an interruption in elective medical services affect existing workers' compensation claims?

Lori E. Julga, FCAS, MAAA  
 Anne C. Kalfisch, FCAS, MAAA  
 Adam Blais, AIC, AIS



Prior to COVID-19, it was business as usual with workplace accidents. People went to work.

Occasionally, workers were injured at work and received workers' compensation benefits in terms of medical care and indemnity benefits (lost wage benefits) to compensate for the resulting injury. Over the past few weeks, we are all facing new challenges with COVID-19 changing our work environment. The impacts not only affect our working environment on the job, but also the normal course of existing workers' compensation claims. In the COVID-19 era, routine medical care may prove anything but routine.

One key component in controlling workers' compensation costs, once a worker has been injured, is getting the injured worker timely medical treatment in order for them to return to work as quickly and safely as possible after a recovery period.

In response to the spread of COVID-19, healthcare providers and state regulators have enacted restrictions on nonemergency surgeries to free up healthcare resources to respond to the pandemic. Many doctors' offices are limiting in-person visits and treating patients over the phone. Many hospitals are only allowing emergency surgeries in order to:

- Protect patients from potential exposure to COVID-19
- Limit healthcare professionals' exposure to COVID-19
- Make hospital beds and staff more available to COVID-19 patients

It is important to note that, despite the various effects of COVID-19, injured workers will still receive medical care and wage replacement. However, the new restrictions on surgeries have changed the timeline for when some injured workers can receive the treatment necessary to return to work, which will result in increased workers' compensation claim costs.

Injured workers commonly receive surgery to repair knees, shoulders, and backs. Some injured workers had these surgeries scheduled in March or April, but they have now been postponed

indefinitely. It is uncertain when hospitals will operate as usual and allow nonemergency surgeries. It is unknown how large the backlog of surgical cases will be (both workers' compensation-related and non-workers' compensation-related). The delay in surgeries will result in some workers being unable to return to work until they can receive necessary treatment.

The additional cost to each workers' compensation claim will be dependent on the particular situation of the injured worker (state location, employer, job duties, etc.) along with the days of delay for medical treatment. As an illustrative example, we will outline costs of a typical workers' compensation injury that requires an arthroscopic knee surgery prior to the worker being able to return to work. We will isolate the cost of the claim prior to the knee surgery to analyze the impact of COVID-19 on the surgery delay. We assume that the worker is unable to return to work in any capacity prior to surgery and also that:

- Post-surgery healing time and costs remain the same before and after the pandemic (assuming three weeks)
- Temporary total indemnity benefits are \$800 per week

For this example, we are limiting our focus to the increase on the indemnity component of the claim only. Prior to COVID-19, the surgery would take place six weeks after the injury, with three weeks of post-surgery recovery, for a total indemnity amount of \$7,200 ( $\$800 \times 9$  weeks). If, due to COVID-19 delays, the surgery is postponed for two months (eight weeks), then the cost of the indemnity benefits becomes \$13,600 ( $\$800 \times 17$  weeks). This is an increase of \$6,400 of indemnity payments, or 89%, due to a two-month delay. If the delay is longer, costs will increase accordingly.

We would expect that the medical cost of the claim would also increase because the injured worker may have additional doctor visits or additional prescription drug costs due to the delay in treatment. However, in this example, we have only considered the additional indemnity cost.

Our hypothetical surgery delay example presents a significant potential increase in the cost of workers' compensation claims that is likely to be seen from postponed surgeries as a result of COVID-19. The surgical cases are not the only claims that could

increase in cost due to the impact of COVID-19. In areas that are emphasizing social distancing, some providers are postponing visits or other forms of treatments as a result of COVID-19. This potentially includes physical therapy treatments, delaying an injured worker's recovery and return to work. Return to work assessments or impairments ratings may also have additional waiting periods as physicians cannot hold in-person examinations. Similar to our surgery example, an increase in indemnity benefit costs for the weeks that treatment or examinations are delayed would be expected.

If there is limited work to return to because of temporary closures of the workplace or no light duty available due to the slowdown in business operations, then a worker's return to work might also be delayed, resulting in additional indemnity benefits, dependent on applicable statutes.

Finally, it is uncertain whether delays in medical treatment result in greater likelihoods of complications or permanency adding to the cost of the claim. For purposes of our examples here, we are focusing on anticipated increases in indemnity costs from surgery and treatment delays that are happening to injured workers currently because of the ongoing COVID-19 environment. On a more positive note, despite the additional indemnity costs anticipated on existing workers' compensation claims due to COVID-19 in the short term, these increased indemnity costs from delayed medical treatment should be diminished once the impact of COVID-19 on the medical system is over.)

The considerations and/or requirements are numerous, complex, sometimes conflicting, and often contain harsh penalties for non-compliance. For more details, contact your Milliman consultant.



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#### CONTACT

Lori E. Julga  
[lori.julga@milliman.com](mailto:lori.julga@milliman.com)

Anne C. Kalfisch  
[anne.kalfisch@milliman.com](mailto:anne.kalfisch@milliman.com)

Adam Blais  
[adam.blais@milliman.com](mailto:adam.blais@milliman.com)